

# **EXHIBIT 39**



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June 1, 2018

Thomas W. Prevoznik  
Diversion Control Division  
Associate Section Chief,  
Pharmaceutical Investigations Section  
8701 Morrisette Drive  
Springfield, Virginia 22152

Dear Mr. Prevoznik:

This letter responds to your email of May 18, 2018 relating to Cardinal Health. I've copied below the questions posed in your email with answers to the same. We'd like the opportunity to meet with DEA to discuss this matter in greater detail following your review of the information below.

1. Identify the time period or time periods during which the-above noted reporting failures occurred.

The vast majority occurred during the time period 2012-2015. Only 23 have occurred since January 1, 2017. None of the orders from any time period shipped.

2. Identify with as much specificity as possible the number of orders your client failed to report, broken down by Cardinal registration number(s) by calendar year. If you have orders for which your client cannot provide the requested information, please provide the most specific approximation that you can, as well as an explanation of how you arrived at this approximation.

Of 220,488 controlled substances orders that exceeded our internal threshold limits and were not cleared to ship from May 2012 to January 2017, 206,360 were reported to DEA as suspicious. That leaves 14,128 instances where orders exceeded our internal threshold limits and were not cleared to ship but were not reported to DEA. None of the 14,128 orders shipped. Many of the 14,128 orders exceed internal threshold limits related to Cardinal Health's use of sub-base codes as an additional basis for suspicious order reporting, an issue we'd like to discuss in more detail with DEA at the appropriate time.

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The breakdown of orders by Cardinal Health DEA registration number is as follows:

DC DEA #	DC Name	DC Address	Orders
RK0416900	Kinray	152-35 10TH AVENUE WHITESTONE, NY 11357	908
RW0191813	Seattle	801 C STREET NW, SUITE B AUBURN, WA 98001	227
RW0269654	Swedesboro	1120 COMMERCE BLVD SWEDESBO, NJ 8085	1160
RW0191419	Salt Lake City	955 WEST 3100 SOUTH SOUTH SALT LAKE CITY, UT 84119	356
RC0221236	Jackson	1240 GLUCKSTADT ROAD MADISON, MS 39110	2009
RW0263056	Phoenix	600 N 83RD AVE TOLLESON, AZ 85353	1093
RC0501014	Memphis	5960 E. SHELBY DRIVE STE 100 MEMPHIS, TN 38141	266
RC0229965	SPS - LaVergne	SERVICES 15 INGRAM BLVD LA VERGNE, TN 37086	3
RO0153609	Wheeling	71 MIL-ACRES DR WHEELING, WV 26003	887
RC0333524	Houston	13651 DUBLIN CT STAFFORD, TX 77477	114
RW0243725	Hudson	2901 ENLOE ST HUDSON, WI 54016	15
RW0243903	Greensboro	4 CARDINAL HEALTH CT. GREENSBORO, NC 27407	541
RW0283452	St. Louis	2840 ELM POINT INDUSTRIAL DR. ST CHARLES, MO 63301	514
RD0108200	Boston	11 CENTENNIAL DRIVE PEABODY, MA 1960	197
RW0236009	Sacramento	3238 DWIGHT RD ELK GROVE, CA 95758	784
PC0003044	Syracuse	6012 EAST MOLLOY RD SYRACUSE, NY 13211	223
RW0279996	Dallas	851 HENRIETTA CREEK ROAD ROANOKE, TX 76262	303
RC0238104	Knoxville	2512 WESTCOTT BLVD KNOXVILLE, TN 37931	1166
RP0337370	ParMed	4220 HYDE PARK BLVD NIAGARA FALLS, NY 14305	44

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DC DEA #	DC Name	DC Address	Orders
RW0231908	Aurora	2353 PROSPECT DR AURORA, IL 60502	712
RW0191926	Kansas City	7601 N.E. GARDNER AVENUE KANSAS CITY, MO 64120	158
RB0374683	Puerto Rico	CENTRO INTERNACIONAL DE DISTRIBUCION CARR 165 KM 2.4 EDIFICIO 10 LOCAL A GUAYNABO, PR 965	215
RC0182080	Lakeland	2045 INTERSTATE DRIVE LAKELAND, FL 33805	217
RW0216449	Valencia	27680 AVENUE MENTRY VALENCIA, CA 91355	1767
RW0263549	Denver	4875 FLORENCE STREET DENVER, CO 80238	249

3. How was Cardinal able to successfully submit some suspicious orders reported to DEA during this period while these were not?

Based on the figures identified above, Cardinal Health's system has been overwhelmingly successful in properly reporting to DEA orders that exceeded our internal threshold levels and were not shipped. The inadvertently unreported orders represent only a small percentage. And most importantly, even when reporting errors occurred, the orders were not shipped.

4. Are these non-reported SORS in addition to the non-reported SORS that were part of the December 2016 Settlement Agreement? If so, how were these SORS missed by Cardinal's system, but yet Cardinal nonetheless "blocked" them from being shipped as you claim?

As part of the 2016 Settlement Agreement, DEA did not provide Cardinal Health with a comprehensive list of the orders upon which DEA allegations were based. Thus, we cannot definitely answer this question. The covered conduct and scope of the release in the Settlement Agreement speak for themselves. Even though these 14,128 orders were not reported to DEA, they nevertheless did not ship because the error occurred in the system responsible for reporting out to DEA unshipped orders that are potentially suspicious; there was no error in the system that is responsible for blocking the orders from shipping once they are identified as "suspicious".

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5. Please identify, with as much specificity and detail as possible, any and all failure(s) that occurred in Cardinal Health's due diligence system that led to the above-noted reporting failures.

Cardinal Health does not believe there was inadequate due diligence on its customers. Cardinal Health's anti-diversion program incorporates knowledge of its customers (what we believe you are referring to as "due diligence") into its robust anti-diversion program. Cardinal Health has provided extensive presentations to DEA on its anti-diversion program and received no indication that its program was inadequate. In relation to the unreported orders, Cardinal Health's anti-diversion program functioned properly: orders that exceeded Cardinal Health's internal threshold limits were flagged, evaluated by the anti-diversion team, and blocked from shipment. Unfortunately, notwithstanding these effective anti-diversion efforts, issues arose in two environments within Cardinal Health's information technology system that prevented the automated reporting of the overwhelming majority of the unreported orders described above. But, as noted, the orders did not ship.

6. What, in Cardinal's view, was the root cause or cause of these failures? In your response, please note whether any failures/deficiencies are attributable to Cardinal's due diligence operations specific to a given registration or registration, or, instead, whether any failures/deficiencies are attributable to Cardinal's due diligence operation as a whole.

After Cardinal Health identified the orders as in excess of Cardinal Health's internally established thresholds and blocked them from shipping, our anti-diversion team flagged them in our suspicious order monitoring system to be reported to DEA. Unfortunately, anomalies arose in Cardinal Health's IT system that prevented these particular unshipped orders from being reported to DEA, even though hundreds of thousands of other unshipped orders were reported. Cardinal Health has remediated the IT issues.

7. What steps has Cardinal Health taken to ensure that such a failure does not occur in the future, and when were those steps taken?

The IT anomaly responsible for the vast majority of unshipped but unreported orders was remediated through a system upgrade in 2015. Further IT enhancements have been made since that time, and Cardinal Health believes that all IT issues have been appropriately addressed. Cardinal Health is also implementing enhanced procedures to better prevent such instances going forward.

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8. Given your representation that most of the unreported orders were from the 2012-2015 time frame, why, in April 2018, did your client "recently become aware" of these orders?

Cardinal Health became aware of the issue in 2018 as a result of data pulls for production to state attorneys general.

Cardinal Health is prepared to transmit data regarding these orders, as requested. Please provide information on how to access to the portal link referenced in your email.

Cardinal Health takes very seriously its obligations under the Controlled Substances Act. It has continually enhanced its suspicious order reporting system and will remain vigilant in doing so. I reiterate our request to meet with DEA to discuss these matters.

Very truly yours,

QUARLES & BRADY LLP

  
Larry P. Cote

LCOTE:mlg